SUPREME COURT, U. S.

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JOHN F. DAVIS, CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM

1968

NO. 1139

GULF STEVEDORE CORPORATION, ET AL,
Petitioners

v.

BERTRAM A. WATSON AND
R. J. SHEA, DEPUTY COMMISSIONER,
Respondents

SUPPLEMENTAL BRIEF OF BERTRAM A. WATSON IN OPPOSITION SUBMITTED UNDER SUPREME COURT RULE 24 SUBDIVISION 5

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Houston, Texas 77002

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TO THE HONORABLE COURT:

This Court denied Petition for Writ of Certiorari on March 31, 1969, in Cause No. 1080, Fluor Corp., Ltd., vs. Cunnyngham 37 Law Week 3363 which presented the question, "Is person totally and permanently disabled within purview of Longshoremen's and Harbor Workers' Compensation Act if he can no longer earn same wages he was making at time of his injury even though he can and did earn some wages after accident?" Question stated in 37 Law Week 3372 reached undersigned's office on April 7, 1969. The case reported on first appeal at 328 F_2 694, cited Page 7 Watson's Brief was reversed by Circuit Court of Appeals for retrial in due course, instead of ordering compensation paid as erroneously stated by undersigned in Watson's Brief supra. It was passed on again by the Circuit Court of Appeals, Fifth Circuit and reported at 403 F_2 223 and 271 FS 508 and is the nearest case in point interpreting permanent total disability under 33 U.S.C. 908(a) of Longshoremen's and Harbor Workers' Compensation Act that the undersigned is aware of. The facts as relate to disability in the respective cases are almost identical. The undersigned was not aware of the further proceedings until the petition for certiorari was denied by this Court and Law Week supra

reached his office on April 7, 1969. The foregoing is submitted in line with Rule 24 Subparagraph 5 Supreme Court Rules allowing further information to be brought forward to the Supreme Court.

Respectfully submitted,

(ORIGINAL SIGNED) W. JILES ROBERTS

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Houston, Texas 77002

CERTIFICATE OF SERVICE

I hereby certify that two copies of the foregoing Supplemental Brief of Bertram A. Watson in Opposition Submitted Under Supreme Court Rule 24 Subdivision 5 have been served upon each of the following: Solicitor General, Department of Justice, and Solicitor of Labor, Washington, D. C., 20530, each by depositing two (2) copies in a United States Post Office or mailbox addressed to their Post Office address, Airmail, postage prepaid, and upon Mr. Morton Sussman, United States Attorney, 515 Rusk Avenue, Houston, Texas 77002, counsel for Respondent, R. J. Shea, Deputy Commissioner; Mr. Carl O. Bue, Jr., Royston, Rayzor & Cook, 877 San Jacinto Building, Houston, Texas 77002, counsel for Petitioners Texas Employers' Insurance Association and Gulf Stevedore Corporation, by depositing in a United States Post Office or mailbox the same to each of them, United States mail, postage prepaid, properly addressed to each of them at their respective Post Office addresses, this the 9 day of April, 1969.

((ORIGINAL SIGNED) W. JILES ROBERTS

W. JILES ROBERTS